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Montgomery Approves Toughened Lending Bill

Broader Definitions, Stiffer Fines Backed

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The Montgomery County Council agreed yesterday to dramatically increase fines against unscrupulous lenders to \$500,000 for violation and expand the categories of activities that constitute discriminatory lending practices.

But the head of the county agency that would help investigate such cases did not appear at yesterday's council meeting to answer questions, prompting several council members to suggest that County Executive Douglas M. Duncan (D) did not fully support the bill.

"The silence is deafening," said council President Tom Perez (D-Silver Spring), who initiated the proposal a year ago. "It does not show the support we need. . . . We want to be able to say to the public that our doors are open and our statutory tools are strong."

Howard A. Denis (R-Potomac-Bethesda), who voted against the bill, also questioned Duncan's stance, asking, "Where is the county executive on this?"

David Weaver, a spokesman for Duncan, said the county executive supported the bill passed yesterday and was simply frustrated that the council had taken a year to consider the legislation.

"All of the issues had been discussed. The only thing left to do was vote," Weaver said. "If the council president didn't know he had the county executive's support, that's surprising to hear. He endorsed the bill soon after it was proposed."

Weaver declined, however, to say what Duncan's position was on the most controversial part of the predatory lending debate: a council amendment proposed by Perez -- but not included in the final draft of the bill -- to lower the legal standard for proving discriminatory lending.

The legislation approved yesterday, by a vote of 7 to 2, would increase fines for discriminatory lending from \$5,000 to \$500,000 and also clarifies that individuals, not just institutions, would be prohibited from engaging in discriminatory lending and that lenders cannot limit a person's choice of loan products, services and rates based on a particular classification, rather than the person's credit.

The county Office of Human Rights would be responsible for producing regular reports on overall lending patterns in the county and below-prime-rate loans. The absence of Odessa M. Shannon, head of the office, prompted the council to delay the vote from morning to afternoon.

Several council members said they believed that Shannon, a Duncan appointee who had participated in committee hearings on the legislation, had been directed by Duncan not to attend the meeting.

Perez asked that a separate bill revisit a proposal to allow county residents to sue under a legal standard that requires proof of discriminatory or disparate impact of a lending practice, without proving the intent.

County attorneys said that proving disparate impact is implied in the bill, but Perez and council member Michael L. Subin (D-Arlington) wanted it to be explicit. Subin said that if the provision weren't needed, the banking industry wouldn't be lobbying so heavily.

Representatives of the state bankers association have fought that provision, saying it would have a "chilling effect" by exposing lenders to greater risk. They said residents should have to prove intent of discrimination.

Perez and several council members had wanted someone from the Office of Human Rights to answer questions yesterday about the bill.

agency once appeared to support the disparate-impact provision but then wanted it excluded in the final bill.

In a 2004 study, the Human Rights Office found that more than half of home loans taken out by African American borrowers in are Federal Housing Administration and subprime loans, which means they carry a higher interest rate and are deemed to be a of default than "prime" mortgage loans. Almost 50 percent of purchase loans to Hispanics were FHA or subprime. In compariso percent of home loans to white home buyers were subprime, the study found.

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